

MALCOLM A. HEINICKE (State Bar No. 194174)
MUNGER, TOLLES & OLSON LLP
560 Mission Street, 27th Floor
San Francisco, California 94105-2907
Tel: (415) 512-4000; Facsimile: (415) 512-4077
Email: Malcolm.Heinicke@mto.com

Attorneys for Defendants WACHOVIA CORPORATION,
WACHOVIA MORTGAGE CORPORATION, WACHOVIA
COMMERCIAL MORTGAGE, INC., WACHOVIA FINANCIAL
SERVICES, INC. and WACHOVIA MORTGAGE, FSB

PLAINTIFFS' COUNSEL LISTED ON SECOND PAGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROBERT CRIDER, on behalf of himself
and others similarly situated,

Plaintiff,

vs.

WACHOVIA CORPORATION, a
corporation, WACHOVIA MORTGAGE
CORPORATION, a corporation,
WACHOVIA COMMERCIAL
MORTGAGE, INC., a corporation,
WACHOVIA FINANCIAL SERVICES,
INC., WACHOVIA MORTGAGE, FSB
an entity form unknown, WACHOVIA,
an entity form unknown, and DOES 1
through 50, inclusive,

Defendants.

CASE NO. C 08-4288 EMC

**THIRD STIPULATION RE: AMENDMENT
OF THE STIPULATION REGARDING
SETTLEMENT OF CLASS AND
COLLECTIVE ACTIONS ; ORDER**

[NO COURT ACTION REQUIRED]

Other Case Affected by Settlement: *Sones v.
World Mortgage Company, et al.*, Case No. 3:08-
cv-04811-CRB

1 PETER M. HART (SBN 198691)
LAW OFFICES OF PETER M. HART
2 13952 Bora Bora Way, F-320
Marina Del Rey, CA 90292
3 Telephone: (310) 478-5789
Facsimile: (509) 561-6441
4 Email: hartpeter@msn.com

5 LARRY W. LEE (SBN 228175)
DIVERSITY LAW GROUP
6 444 S. Flower Street, Suite 1370
Los Angeles, CA 90071
7 Telephone: (213) 488-6555
Facsimile: (213) 488-6554

8 KENNETH H. YOON (SBN 198443)
LAW OFFICES OF KENNETH H. YOON
9 One Wilshire Boulevard, Suite 2200
Los Angeles, CA 90017
10 Telephone: (213) 612-0988
Facsimile: (213) 947-1211
11 kyoona@yoona-law.com

12 Attorneys for Plaintiff ROBERT CRIDER and proposed
13 Settlement Class

14 NORMAN B. BLUMENTHAL (SBN 068687)
KYLE R. NORDREHAUG (SBN 205975)
15 APARAJIT BHOWMIK (SBN 248066)
BLUMENTHAL & NORDREHAUG
16 2255 Calle Clara
La Jolla, CA 92037
17 Telephone: (858) 551-1047
Facsimile: (858) 551-1232

18 WALTER HAINES (SBN 71705)
UNITED EMPLOYEES LAW GROUP
19 65 Pine Ave, #312
Long Beach, CA 90802
20 Phone: (562) 256-1047
Facsimile: (562) 256-1006

21 Attorneys for Plaintiff JOHN SONES and
22 proposed Settlement Class
23 (Plaintiff in similar action to be dismissed as part of this settlement)

1 WHEREAS, Plaintiffs Robert Crider and John Sones have filed the above-
2 captioned and above-referenced putative class actions against Defendants alleging various
3 employment claims, including the alleged failure to properly classify employees, the alleged
4 failure to reimburse business expenses and the alleged failure to provide proper reduction in force
5 notices;

6 WHEREAS, the parties (through counsel for all parties) have conducted a
7 mediation session and have reached a settlement agreement, and the parties obtained from this
8 Court preliminary approval of that settlement and associated authority to send notices to the
9 proposed class;

10 WHEREAS, Paragraph 2.11.6 of the Stipulation Re: Settlement Of Class Action
11 provides that the Settling Parties agree that the Notice Response Deadline shall not be extended,
12 and no untimely submissions or claims will be honored, under any circumstances, unless, and
13 only unless, a Class Member can sufficiently demonstrate that his or her failure to respond to the
14 Class Notice was the product of the fact that he or she was legally incompetent during the notice
15 response period, including, for example, he or she was incarcerated or hospitalized or an active
16 military duty during the full notice response period; provided, however, no extensions will be
17 granted for incompetency unless first requested in writing to the Claims Administrator or Class
18 Counsel fewer than ninety (90) days following the Notice Response Deadline. Per this
19 Paragraph, the Settling Parties also agreed that the establishment and enforcement of the Notice
20 Response Deadline is valuable consideration to Wachovia, and the finality provided thereby is a
21 material aspect of this agreement, and that any ruling to the contrary by the Court or any ruling
22 allowing the filing of any responses to the Class Notice following the Notice Response Deadline
23 shall be grounds for Wachovia to void the Stipulation Re: Settlement Of Class Action;

24 WHEREAS, Paragraph 2.11.20 of the Stipulation Re: Settlement Of Class Action
25 provides that in the event fewer than 20% of Class Members have submitted to the Claims
26 Administrator some form of written response to the Class Notice, *i.e.*, a change of address form,
27 an opt out form or a claim form, by the date that is five (5) days before the Notice Response
28 Deadline, then the Notice Response Deadline is to be extended ten (10) days, and the Claims

1 Administrator shall send each Class Member who has yet to respond a postcard (a) referencing
2 the name of the Litigation; (b) stating that the Class Member previously received a notice in this
3 action; (c) providing an address for the Claims Administrator and stating that the Class Member
4 can write the Claims Administrator to receive an additional copy of the notice; and (d) stating the
5 revised Notice Response Deadline.

6 WHEREAS, the Claims Administrator has informed the Settling Parties that the
7 pre-condition of Paragraph 2.11.20 has been met, i.e., fewer than 20% of Class Members have
8 submitted to the Claims Administrator some form of written response to the Class Notice, i.e., a
9 change of address form, an opt out form or a claim form, by the date that is five (5) days before
10 the initial (un-extended) Notice Response Deadline;

11 WHEREAS, Class Counsel have expressed concerns that there may have been
12 delays associated the receipt of Class Notices for some Class Members because of the delays
13 associated with address tracing and re-mailing and the fact that many notices were so traced and
14 re-mailed;

15 WHEREAS, counsel for the parties have met and conferred on these issues;

16 WHEREAS, Paragraphs 2.11.9 and 2.11.11 of the Stipulation Re: Settlement Of
17 Class Action authorize the parties, through counsel, to amend the settlement agreement, and
18 counsel signing below represent that they have express authority from their clients to enter this
19 stipulation;

20 WHEREAS, all parties favor and will support Court approval of the settlement as
21 amended herein;

22 WHEREAS, the parties through their counsel stipulate as follows:

23 IT IS HEREBY STIPULATED that the Claims Administrator will, no later than
24 June 15, 2009, send a post card to all non-responding Class Members (a) referencing the name of
25 the Litigation; (b) stating that the Class Member previously received a notice in this action; (c)
26 providing an address for the Claims Administrator and stating that the Class Member can write
27 the Claims Administrator to receive an additional copy of the notice; and (d) stating the revised
28

1 Notice Response Deadline as set forth below. The postcard shall not contain additional
2 information or statements;

3 IT IS HEREBY ALSO STIPULATED that the Notice Response Deadline is
4 extended until July 1, 2009 for all Class Members, and Paragraph 1.25 is amended accordingly;

5 IT IS HEREBY ALSO STIPULATED that Paragraph 2.11.6 remains in full effect
6 for this revised Notice Response Deadline set forth above, and that this revised Notice Response
7 Deadline will not be extended except as provided in Paragraph 2.11.6;

8 IT IS HEREBY ALSO STIPULATED that Class Counsel, on behalf of the
9 Representative Plaintiffs, agree that this stipulation and its associated changes address the
10 concerns that they have raised concerning the notice and claims process in this action, and Class
11 Counsel agree not to seek or advocate any further changes to the Stipulation or notice and claims
12 process.

13 Respectfully Submitted,

14 DIVERSITY LAW GROUP

15 DATED: June 10, 2009:

16 By: /s/ Larry Lee
17 Larry Lee
18 Class Counsel and Counsel to Plaintiff
19 Robert Crider

20 BLUMENTHAL & NORDERHAUG

21 DATED: June 10, 2009:

22 By: /s/ Norman B. Blumenthal
23 NORMAN B. BLUMENTHAL
24 Class Counsel and Counsel to Plaintiff
25 John Sones

26 MUNGER, TOLLES & OLSON LLP

27 DATED: June 10, 2009:

28 By: /s/ Malcolm A. Heinicke
MALCOLM A. HEINICKE
Counsel for Defendants

29 I, Malcolm A. Heinicke, attest that I have obtained concurrence from Larry Lee
30 and Norman Blumenthal in the filing of this Stipulation Regarding Settlement of Class And
31 Collective Actions. See N.D. Cal. General Order 45 § 10(B).

32 IT IS SO ORDERED:

33 7992677.1

34 Edward M.

35 U.S. Magistrate Judge
